

1 C. YONG JEONG, ESQ. (SBN 255244)
jeong@jeonglikens.com
2 AMY CHOE, ESQ. (SBN 299870)
amy.choe@jeonglikens.com
3 JEONG & LIKENS, L.C.
4 1055 W. 7TH Street, Suite 2280
5 Los Angeles, California 90017
6 Tel. 213-688-2001
Fax. 213-688-2002

7 Attorneys for Plaintiff, JITRADE, INC.
8
9

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12
13
14

15 JITRADE, INC. a California
Corporation;

16 Plaintiff,

17 vs.
18

19 BERESHITH, INC. d/b/a LOVE IN, a
California Corporation; KYUNG HAE
LEE CHANG, an individual;
20 UNLIMITED, business entity form
unknown; TK CLOTHING, INC. d/b/a
21 Bellissima, a California Corporation;
22 SCOTT S PARK, an individual;
VANILLA MONKEY LTD. d/b/a 1
23 MAD FIT, a California Corporation;
SEOK EUN KANG, an individual;
24 ZULILY, LLC. a Washington Limited
Liability Company; and DOES 1-10,
25 inclusive,

26 Defendants.
27
28

Case Number: 2:17-cv-04704

PLAINTIFF'S COMPLAINT FOR:

- 1. COPYRIGHT INFRINGEMENT**
- 2. VICARIOUS COPYRIGHT INFRINGEMENT**
- 3. CONTRIBUTORY COPYRIGHT INFRINGEMENT**

Jury Trial Demanded

1 Plaintiff JITRADE, INC. ("JITRADE") by and through its undersigned attorneys,
2 hereby prays to this honorable Court for relief and remedy based on the following:
3
4
5
6

7 **INTRODUCTION**

8 Plaintiff is a California-based company engaged in the apparel industry as a textile
9 converter of imported and domestic fabrications. Plaintiff creates, or purchases
10 and obtains, exclusive rights to unique two-dimensional graphic artworks for use
11 on textiles and garments, and those textiles and garments are transacted primarily
12 in the fashion industry. Plaintiff owns these designs in exclusivity and makes sales
13 of products bearing these designs for profit. Plaintiff's business is predicated on its
14 ownership of these designs and it spends a considerable amount of time and
15 resources creating and obtaining top-quality, marketable and aesthetically-
16 appealing designs. Customers of Plaintiff, including possibly DOE defendants
17 named herein, take design samples with the understanding and agreement that they
18 will only utilize Plaintiff to reproduce said designs should they wish to do so, and
19 will not seek to make minor changes to Plaintiff's proprietary work to reproduce
20 the same elsewhere, yet use those designs in furtherance of their business in
21 violation of both their contractual agreement with Plaintiff and Plaintiff's
22 copyrights. No other party is authorized to make sales of product bearing
23 Plaintiff's proprietary designs without express permission from Plaintiff. This
24 action is brought to recover damages for direct, vicarious and contributory
25 copyright infringement arising out of the misappropriation of Plaintiff's exclusive
26 designs by the Defendants, and each of them.
27

28 **JURISDICTION AND VENUE**

- 1 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C. § 101 *et*
2 *seq.*
- 3 2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331, 1338(a)
4 and (b).
- 5 3. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(c) and 1400(a)
6 in that this is the judicial district in which a substantial part of the acts and
7 omissions giving rise to the claims occurred.

8 **PARTIES**

- 9 4. JITRADE (“Plaintiff”) is a corporation organized and existing under the laws of
10 the State of California with its principal place of business in the County of Los
11 Angeles, at 3450 Wilshire Blvd., Suite 406, Los Angeles, CA 90010.
- 12 5. Plaintiff is informed and believes and thereon alleges that Defendant
13 BERESHITH, INC. d/b/a Love In (“BERESHITH”), is, and at all times herein
14 mentioned was, a corporation organized and existing under the laws of
15 California and doing business in California, with its principal place of business
16 at 1100 S. San Pedro Street. STE. G9, Los Angeles, CA 90015.
- 17 6. Plaintiff is informed and believes and thereon alleges that Defendant KYUNG
18 HAE LEE CHANG (“KYUNG HAE LEE CHANG”), is, and at all times herein
19 mentioned was, an individual residing in Los Angeles, California. Plaintiff is
20 informed and believes and thereon alleges that Defendant KYUNG HAE LEE
21 CHANG is, and at all times herein mentioned was, the owner and principal of
22 BERESHITH, INC. with its principal place of business at 1100 S. San Pedro
23 Street. STE. G9, Los Angeles, CA 90015.
- 24 7. Plaintiff is informed and believes and thereon alleges that Defendant Unlimited
25 (“Unlimited”), is, and at all times herein mentioned was, a website nationally
26 distributing garments online.
- 27 8. Plaintiff is informed and believes and thereon alleges that Defendant TK
28 CLOTHING, INC. d/b/a Bellissima, (“TK CLOTHING”), is, and at all times

1 herein mentioned was, a corporation organized and existing under the laws of
2 California and doing business in California, with its principal place of business
3 at 1015 Crocker St., Ste S12, Los Angeles, CA 90021.

4 9. Plaintiff is informed and believes and thereon alleges that Defendant SCOTT S
5 PARK (“SCOTT S PARK”), is, and at all times herein mentioned was, an
6 individual residing in Los Angeles, California. Plaintiff is informed and
7 believes and thereon alleges that Defendant SCOTT S PARK is, and at all times
8 herein mentioned was, the owner and principal of TK CLOTHING, INC. with
9 its principal place of business at 1015 Crocker St., Ste S12, Los Angeles, CA
10 90021.

11 10. Plaintiff is informed and believes and thereon alleges that Defendant
12 VANILLA MONKEY LTD, d/b/a 1 MAD FIT (“VANILLA MONKEY”), is,
13 and at all times herein mentioned was, a corporation organized and existing
14 under the laws of California and doing business in California, with its principal
15 place of business at 1100 S. Crocker St #400, Los Angeles, CA 90021.

16 11. Plaintiff is informed and believes and thereon alleges that Defendant SEOK
17 EUN KANG (“SEOK EUN KANG”), is, and at all times herein mentioned was,
18 an individual residing in Los Angeles, California. Plaintiff is informed and
19 believes and thereon alleges that Defendant SEOK EUN KANG is, and at all
20 times herein mentioned was, the owner and principal of VANILLA MONKEY
21 LTD. with its principal place of business at 1100 S. Crocker St #400, Los
22 Angeles, CA 90021.

23 12. Plaintiff is informed and believes and thereon alleges that Defendant ZULILY,
24 LLC (“ZULILY”) is, and at all times herein mentioned was, a limited liability
25 company organized and existing under the laws of Washington and doing
26 business in Washington, with its principal place of business at 300 Deschutes
27 Way SW, Suite 304, Tumwater, WA 98501.

28 13. Named Defendants, and Does 1-10, may be collectively referred to as

1 “Defendants.”

2 14. Plaintiff is informed and believes and thereon alleges that some of Defendants
3 Does 1 through 3, inclusive, are manufacturers and/or vendors of garments to
4 Defendant, which DOE Defendants have manufactured and/or supplied and are
5 manufacturing and/or supplying garments comprised of fabric printed with
6 Plaintiff’s copyrighted design(s) (as hereinafter defined) without Plaintiff’s
7 knowledge or consent or have contributed to said infringement. The true
8 names, whether corporate, individual or otherwise, and capacities of defendants
9 sued herein as Does 1 through 3 are presently unknown to Plaintiff at this time,
10 and therefore, Plaintiff sues said defendants by such fictitious names. Plaintiff
11 will seek leave to amend this complaint to allege their true names and capacities
12 when the same have been ascertained. Plaintiff is informed and believes, and
13 based thereon alleges, that each of defendants designated as a DOE is
14 responsible in some manner for the events alleged herein and the damages
15 caused thereby.

16 15. Defendants DOES 4 through 10, inclusive, are other parties not yet identified
17 who have infringed Plaintiff’s copyrights, have contributed to the infringement
18 of Plaintiff’s copyrights, or have engaged in one or more of the wrongful
19 practices alleged herein. The true names, whether corporate, individual or
20 otherwise, and capacities of defendants sued herein as Does 4 through 10 are
21 presently unknown to Plaintiff at this time, and therefore, Plaintiff sues said
22 defendants by such fictitious names. Plaintiff will seek leave to amend this
23 complaint to allege their true names and capacities when the same have been
24 ascertained.

25 16. Plaintiff is informed and believes and thereupon alleges that at all times
26 relevant hereto each of Defendants acted in concert with each other, was the
27 agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee
28 of the remaining defendants and was at all times acting within the scope of such

1 agency, affiliation, alter-ego relationship and/or employment; and actively
 2 participated in or subsequently rarified and adopted, or both, each and all of the
 3 acts or conducts alleged, with full knowledge of all the facts and circumstances,
 4 including without limitation to full knowledge of each and every wrongful
 5 conducts and Plaintiff's damages caused therefrom.

6 7 **CLAIMS RELATED TO DESIGN**

8 17.Plaintiff is the owner and author of a two-dimensional artwork called
 9 SND1604_15D ("Subject Design"). (Exhibit A).

10 18.Plaintiff applied for a copyright from the United States Copyright Office for the
 11 Subject Design and was granted Registration No. *_APPLICATION_* on June
 12 03, 2016. (Exhibit B).

13 19.Plaintiff formatted the Subject Design for use on textiles, sampled the Subject
 14 Design, and negotiated sales of fabric bearing the Subject Design.

15 20.Plaintiff is informed and believes and thereon alleges that Defendants, each of
 16 them, had access to the Subject Designs, including without limitation, through:
 17 (a) access to Plaintiff's showroom and/or design library; (b) access to illegally
 18 distributed copies of the Subject Designs by third-party vendors and/or DOE
 19 Defendants, including without limitation international and/or overseas
 20 converters and printing mills; (c) access to Plaintiff's strike-offs and samples;
 21 and (d) access to garments in the marketplace manufactured with lawfully
 22 printed fabric bearing the Subject Designs.

23 21.Plaintiff is informed and believes and thereon alleges that, without Plaintiff's
 24 authorization, Defendant BERESHITH purchased, sold, marketed, advertised,
 25 manufactured, caused to be manufactured, imported and/or distributed fabric
 26 and/or garments comprised of fabric featuring a design which is identical, or
 27 substantially similar to, the Subject Design. A true and correct copy of such a
 28

1 garment is attached hereto as Exhibit C. Said garments include but are not
2 limited to garments sold by BERESHITH.

3 22. At various times Defendant BERESHITH owned and controlled offline and/or
4 online retail stores, and each, Plaintiff's investigation revealed that garments
5 comprised of fabric bearing the Subject Design were being offered for sale,
6 garments which were manufactured and/or imported under the direction of the
7 Defendants, and each of them.

8 23. Plaintiff is informed and believes and thereon alleges that, without Plaintiff's
9 authorization, Defendant KYUNG HAE LEE CHANG purchased, sold,
10 marketed, advertised, manufactured, caused to be manufactured, imported
11 and/or distributed fabric and/or garments comprised of fabric featuring a design
12 which is identical, or substantially similar to, the Subject Design. A true and
13 correct copy of such a garment is attached hereto as Exhibit C. Said garments
14 include but are not limited to garments sold by KYUNG HAE LEE CHANG.

15 24. At various times Defendant KYUNG HAE LEE CHANG owned and controlled
16 offline and/or online retail stores, and each, Plaintiff's investigation revealed
17 that garments comprised of fabric bearing the Subject Design were being
18 offered for sale, garments which were manufactured and/or imported under the
19 direction of the Defendants, and each of them.

20 25. Plaintiff is informed and believes and thereon alleges that, without Plaintiff's
21 authorization, Defendant Unlimited purchased, sold, marketed, advertised,
22 manufactured, caused to be manufactured, imported and/or distributed fabric
23 and/or garments comprised of fabric featuring a design which is identical, or
24 substantially similar to, the Subject Design. A true and correct copy of such a
25 garment is attached hereto as Exhibit C. Said garments include but are not
26 limited to garments sold by Unlimited.

27 26. At various times Defendant Unlimited owned and controlled offline and/or
28 online retail stores, and each, Plaintiff's investigation revealed that garments

1 comprised of fabric bearing the Subject Design were being offered for sale,
2 garments which were manufactured and/or imported under the direction of the
3 Defendants, and each of them.

4 27. Plaintiff is informed and believes and thereon alleges that, without Plaintiff's
5 authorization, Defendant TK CLOTHING purchased, sold, marketed,
6 advertised, manufactured, caused to be manufactured, imported and/or
7 distributed fabric and/or garments comprised of fabric featuring a design which
8 is identical, or substantially similar to, the Subject Design. A true and correct
9 copy of such a garment is attached hereto as Exhibit C. Said garments include
10 but are not limited to garments sold by TK CLOTHING.

11 28. At various times Defendant TK CLOTHING owned and controlled offline
12 and/or online retail stores, and each, Plaintiff's investigation revealed that
13 garments comprised of fabric bearing the Subject Design were being offered for
14 sale, garments which were manufactured and/or imported under the direction of
15 the Defendants, and each of them.

16 29. Plaintiff is informed and believes and thereon alleges that, without Plaintiff's
17 authorization, Defendant SCOTT S PARK, sold, marketed, advertised,
18 manufactured, caused to be manufactured, imported and/or distributed fabric
19 and/or garments comprised of fabric featuring a design which is identical, or
20 substantially similar to, the Subject Design. A true and correct copy of such a
21 garment is attached hereto as Exhibit C. Said garments include but are not
22 limited to garments sold by SCOTT S PARK.

23 30. At various times Defendant SCOTT S PARK owned and controlled offline
24 and/or online retail stores, and each, Plaintiff's investigation revealed that
25 garments comprised of fabric bearing the Subject Design were being offered for
26 sale, garments which were manufactured and/or imported under the direction of
27 the Defendants, and each of them.

1 31.Plaintiff is informed and believes and thereon alleges that, without Plaintiff's
2 authorization, Defendant VANILLA MONKEY purchased, sold, marketed,
3 advertised, manufactured, caused to be manufactured, imported and/or
4 distributed fabric and/or garments comprised of fabric featuring a design which
5 is identical, or substantially similar to, the Subject Design. A true and correct
6 copy of such a garment is attached hereto as Exhibit C. Said garments include
7 but are not limited to garments sold by VANILLA MONKEY.

8 32.At various times Defendant VANILLA MONKEY owned and controlled
9 offline and/or online retail stores, and each, Plaintiff's investigation revealed
10 that garments comprised of fabric bearing the Subject Design were being
11 offered for sale, garments which were manufactured and/or imported under the
12 direction of the Defendants, and each of them.

13 33.Plaintiff is informed and believes and thereon alleges that, without Plaintiff's
14 authorization, Defendant SEOK EUN KANG, sold, marketed, advertised,
15 manufactured, caused to be manufactured, imported and/or distributed fabric
16 and/or garments comprised of fabric featuring a design which is identical, or
17 substantially similar to, the Subject Design. A true and correct copy of such a
18 garment is attached hereto as Exhibit C. Said garments include but are not
19 limited to garments sold by SEOK EUN KANG.

20 34.At various times Defendant SEOK EUN KANG owned and controlled offline
21 and/or online retail stores, and each, Plaintiff's investigation revealed that
22 garments comprised of fabric bearing the Subject Design were being offered for
23 sale, garments which were manufactured and/or imported under the direction of
24 the Defendants, and each of them.

25 35.Plaintiff is informed and believes and thereon alleges that, without Plaintiff's
26 authorization, Defendant ZULILY purchased, sold, marketed, advertised,
27 manufactured, caused to be manufactured, imported and/or distributed fabric
28 and/or garments comprised of fabric featuring a design which is identical, or

1 substantially similar to, the Subject Design. A true and correct copy of such a
2 garment is attached hereto as Exhibit C. Said garments include but are not
3 limited to garments sold by ZULILY.

4 36. At various times Defendant ZULILY owned and controlled offline and/or
5 online retail stores, and each, Plaintiff's investigation revealed that garments
6 comprised of fabric bearing the Subject Design were being offered for sale,
7 garments which were manufactured and/or imported under the direction of the
8 Defendants, and each of them.

9 37. None of the aforementioned transactions were authorized by Plaintiff, and all
10 were in violation of Plaintiff's intellectual property rights.

11
12 **FIRST CLAIM FOR RELIEF**

13 (For Copyright Infringement – Against all Defendants, and Each)

14 38. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully
15 set forth the allegations contained in Paragraphs 1 through 37, inclusive, of this
16 Complaint.

17 39. Plaintiff is informed and believes and thereon alleges that Defendants, and each
18 of them, accessed the Subject Design through, without limitation, the following:
19 (a) access to Plaintiff's design library; (b) access to authorized or unauthorized
20 reproductions in the possession of other vendors and/or DOE Defendants; and
21 (c) access to Plaintiff's strike-offs, swatches, paper CADs and samples.

22 40. Plaintiff is informed and believes and thereon alleges that Defendants, and each
23 of them, infringed Plaintiff's copyright by importing, creating, marketing,
24 advertising, making, and/or developing directly infringing and/or derivative
25 works from the Subject Design and by importing, producing, distributing and/or
26 selling infringing garments through a nationwide network of retail stores,
27 catalogues, and online websites.

1 41. Due to Defendants' acts of infringement, Plaintiff has suffered substantial
2 damages to its business in an amount to be established at trial.

3 42. Due to Defendants' acts of infringement, Plaintiff has suffered general and
4 special damages to its business in an amount to be established at trial.

5 43. Due to Defendants' acts of copyright infringement as alleged herein,
6 Defendants, and each of them, have obtained direct and indirect profits they
7 would not otherwise have realized but for their infringement of the Subject
8 Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits
9 directly and indirectly attributable to Defendants' infringement of the Subject
10 Design in an amount to be established at trial.

11 44. Plaintiff is informed and believes and thereon alleges that Defendants, and each
12 of them, have committed acts of infringement alleged herein with actual or
13 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a
14 finding of willful infringement.

15
16 **SECOND CLAIM FOR RELIEF**

17 (For Vicarious and/or Contributory Copyright Infringement – Against All
18 Defendants)

19 45. Plaintiff repeats, re-alleges and incorporates herein by reference as though fully
20 set forth the allegations contained in Paragraphs 1 through 44, inclusive, of this
21 Complaint.

22 46. Plaintiff is informed and believes and thereon alleges that Defendants, and each
23 of them, knowingly induced, participated in, aided and abetted in and
24 resultantly profited from the illegal reproduction, importation, purchase,
25 marketing, advertisement, distribution and/or sales of product featuring the
26 Subject Design as alleged herein above.

27 47. Plaintiff is informed and believes and thereon alleges that Defendants, and each
28 of them, are vicariously liable for the infringement alleged herein because they

1 had the right and ability to supervise the infringing conduct and because they
2 had a direct financial interest in the infringing product.

3 48.By reason of the Defendants', and each of their, acts of contributory and/or
4 vicarious infringement as alleged above, Plaintiff has suffered and will continue
5 to suffer substantial damages to its business in an amount to be established at
6 trial, as well as additional general and special damages in an amount to be
7 established at trial.

8 49.Due to Defendants' acts of contributory and/or vicarious copyright infringement
9 as alleged herein, Defendants, and each of them, have obtained direct and
10 indirect profits they would have not otherwise realized bur for their
11 infringement of the Subject Design. As such, Plaintiff is entitled to
12 disgorgement of Defendants' profits directly and indirectly attributable to
13 Defendants' infringement of the Subject Design, an amount to be established at
14 trial.

15 50.Plaintiff is informed and believes and thereon alleges that Defendants, and each
16 of them, have committed acts of infringement alleged herein with actual or
17 constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a
18 finding of willful infringement.

19 **THIRD CLAIM FOR RELIEF**

20 (Contributory Copyright Infringement– Against All Defendants)

21 51.Plaintiff repeats, re-alleges and incorporates herein by reference as though fully
22 set forth the allegations contained hereforeto, inclusive, of this Complaint.

23 52.Plaintiff is informed and believes and thereon alleges that Defendants, and each
24 of them, knowingly induced, caused, materially contributed to, participated in,
25 encourages, aided and abetted in and resultantly profited from the illegal
26 reproduction, importation, purchase, marketing, advertising, distribution and/or
27 sales of product featuring the Subject Design as alleged herein above.
28

53. By reason of the Defendants', and each of their, acts of contributory copyright infringement as alleged above, Plaintiff has suffered and will continue to suffer substantial damages to its business in an amount to be established at trial, as well as additional general and special damages in an amount to be established at trial.

54. Due to Defendants' acts of contributory copyright infringement as alleged herein, Defendants, and each of them, have obtained direct and indirect profits they would have not otherwise realized but for their infringement of the Subject Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly attributable to Defendants' infringement of the Subject Design, an amount to be established at trial.

55. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed acts of infringement alleged herein with actual or constructive knowledge of Plaintiff's rights such that Plaintiff is entitled to a finding of willful infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against all Defendants as follows:

Against All Defendants

With respect to Each Claim for Relief:

1. That Defendants, their agents and servants be enjoined from infringing Plaintiff's copyrights in any manner;
2. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff, the exact sum to be proven at time of trial, or, if elected before final judgment, statutory damages as available under the Copyright Act, 17 U.S.C. § 101 *et seq.*;

3. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act, 17 U.S.C. § 101 *et seq.*;
4. That Plaintiff be awarded pre-judgment interest as allowed by law;
5. That Plaintiff be awarded costs of litigation; and
6. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury in this action pursuant to Federal Rule of Civil Procedure 38 and the Seventh Amendment of the Constitution.

Dated: June 26, 2017

Respectfully submitted,

/s/C. Yong Jeong
C. Yong Jeong, Esq.
Amy Choe, Esq.
Attorneys for Plaintiff